

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 56007	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/007743	International filing date (day/month/year) 13.07.2004	Priority date (day/month/year) 15.07.2003
International Patent Classification (IPC) or national classification and IPC B25D17/04		
Applicant WACKER CONSTRUCTION EQUIPMENT AG		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>10</u> sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>	
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2), with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007743

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
 - ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
 - ☐ the international application as originally filed/furnished
 - ☒ the description:
 - pages 1, 2, 4-32 as originally filed/furnished
 - pages* 3, 3A received by this Authority on 13.05.2005 with letter of 13.05.2005
 - pages* _____ received by this Authority on _____
 - ☒ the claims:
 - nos. _____ as originally filed/furnished
 - nos.* _____ as amended (together with any statement) under Article 19
 - nos.* 1-36 received by this Authority on 13.07.2005 with letter of 13.07.2005
 - nos.* _____ received by this Authority on _____
 - ☒ the drawings:
 - sheets 1/5-5/5 as originally filed/furnished
 - sheets* _____ received by this Authority on _____
 - sheets* _____ received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007743

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>1-36</u>	YES
	Claims	<u></u>	NO
Inventive step (IS)	Claims	<u>1, 16</u>	YES
	Claims	<u>2-15, 17-36</u>	NO
Industrial applicability (IA)	Claims	<u>1-36</u>	YES
	Claims	<u></u>	NO
2. Citations and explanations (Rule 70.7)			
1. Reference is made to the following document:			
D1: DE 101 58 266 A (BOSCH GMBH ROBERT)			
26 June 2003 (2003-06-26).			
2. The subject matter of claim 2 differs from the tool known from D1 in that <i>"the actuator has a pneumatic suspension in the handgrip, which pneumatic suspension can be variably charged with compressed air, and in that vibration is suppressed largely by means of said pneumatic suspension in the handgrip"</i> .			
2.1 Although D1 discloses an actuator, said actuator is not more closely defined. A person skilled in the art would therefore have an incentive to take into consideration certain actuators from the field of pneumatic actuators (see column 3, lines 64-66; <i>"the actuator comprises a plunger that can be displaced by means of a pneumatic drive"</i>).			
2.2 A person skilled in the art would therefore use a conventional pneumatic actuator that comprises			
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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007743

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an air slug driven by compressed air - in other words the claimed features.

2.3 The use of a known pneumatic suspension of this type in a device that is otherwise known cannot be considered inventive.

2.4 The actuator disclosed in D1 has a pneumatic suspension in the handgrip, a suspension system 4 being arranged thereupon. Therefore, said pneumatic drive acts to suppress vibration.

2.5 The expression "largely" lacks clarity and should not be used by the applicant for delimiting his invention over the prior art (see PCT International Search and Preliminary Examination Guidelines paragraph II-5.34).

2.6 The same arguments apply in a similar manner in a similar manner in respect of the subject matter of claim 17.

3. Thus, the subject matter of claim 1 differs from the tool known from D1 in that *"the actuator has a pneumatic suspension in the handgrip, which pneumatic suspension can be variably charged with compressed air, and in that a suspension system is arranged between the first unit and the second unit in parallel within the actuator."*

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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PCT/EP2004/007743

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

3.1 The subject matter of claim 1 is therefore novel (PCT Article 33(2)).

3.2 The problem addressed by the present invention can consequently be regarded as that of:

suppressing vibration largely by means of a pneumatic suspension in the handgrip.

3.3 The solution to the above problem, as proposed in claim 1 of the present application, is not disclosed in the prior art, nor is it rendered obvious thereby. The subject matter of claim 1 therefore involves an inventive step (PCT Article 33(3)).

3.4 The same reasoning applies in a similar manner in respect of the subject matter of claim 16.

4. In so far as claims 3-15 and 36 are dependent on claim 1, they satisfy the requirements of the PCT in respect of novelty and inventive step.

4.1 In so far as claims 18-36 are dependent on claim 16, they satisfy the requirements of the PCT in respect of novelty and inventive step.